



April 8, 1999

Mr. Raymond D. Martinez
Assistant City Attorney
Office of the City Attorney
Municipal Building
Dallas, Texas 75201

OR99-0950

Dear Mr. Martinez:

You ask whether certain information is subject to required public disclosure under chapter 552 of the Government Code. Your request was assigned ID# 123250.

The Dallas Police Department (the "city") received a request for the officer's report of a theft. You claim that the requested information is excepted from disclosure under section 552.108 of the Government Code. You submitted to this office the responsive information. We have considered the exception you claim and reviewed the submitted information.

You indicated that the city received the request for information on December 28, 1998. However, the city did not request a decision from this office until January 13, 1999, more than ten business days after the city received the request. The Public Information Act imposes a duty on governmental bodies seeking a decision pursuant to section 552.301 to submit that request to the attorney general within ten business days after the governmental body's receipt of the request for information. The time limitation found in section 552.301 is an express legislative recognition of the importance of having public information produced in a timely fashion. *Hancock v. State Board of Insurance*, 797 S.W.2d 379, 381 (Tex. App.--Austin 1990, no writ). When a request for a decision is not made within the time period prescribed by section 552.301, the requested information is presumed to be public. See Gov't Code § 552.302. This presumption of openness can only be overcome by a compelling demonstration that the information should not be made public. See, e.g., Open Records Decision No. 150 (1977) (presumption of openness overcome by a showing that the information is made confidential by another source of law or affects third party interests).

The need of a governmental body, other than the body that is seeking an open records decision, to withhold information under section 552.108 of the Government Code may be a compelling reason for non-disclosure. Open Records Decision 586 (1991). Section 552.108 excepts from disclosure:

(a) Information held by a law enforcement agency or prosecutor that deals with the detection, investigation, or prosecution of crime if:

(1) release of the information would interfere with the detection, investigation, or prosecution of crime;

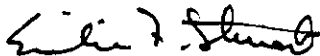
. . .

Government Code § 552.108(a). In this instance, the Dallas County District Attorney has advised that disclosure of the requested information would compromise his ability to prosecute the case. You may withhold, therefore, most of the requested information at this time pursuant to section 552.108(a)(1).

Section 552.108 does not, however, except from required public disclosure "basic information about an arrested person, an arrest, or a crime." Gov't Code § 552.108(c). Because you have raised no other exception to disclosure, the city must release the types of basic information listed in *Houston Chronicle Publishing Company v. City of Houston*, 531 S.W.2d 177 (Tex. Civ. App.--Houston [14th Dist.] 1975), *writ ref'd n.r.e. per curiam*, 536 S.W.2d 559 (Tex. 1976).

We are resolving this matter with an informal letter ruling rather than with a published open records decision. This ruling is limited to the particular records at issue under the facts presented to us in this request and should not be relied upon as a previous determination regarding any other records. If you have questions about this ruling, please contact our office.

Sincerely,



Emilie F. Stewart
Assistant Attorney General
Open Records Division

EFS\nc

Ref: ID# 123250

Encl: Submitted documents

cc: Mr. Ed Cass
American Manufacturers Mutual
Claim Department
1 Kemper Drive, B-7
Long Grove, Illinois 60049-0001
(w/o enclosures)